

# ARKANSAS SUPREME COURT

No. CR 08-1297

JAMES AARON MILLER  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered      March 12, 2009

PRO SE MOTION TO WITHDRAW  
APPEALS [CIRCUIT COURT OF  
SEBASTIAN COUNTY, FORT SMITH  
DISTRICT, CR 2006-1529, HON.  
JAMES O. COX, JUDGE]

MOTION MOOT.

## PER CURIAM

Appellant James Aaron Miller was convicted of capital murder and sentenced to death. Following procedure under Arkansas Rule of Appellate Procedure–Criminal 10, counsel for appellant lodged an automatic appeal for the mandatory review required by this court. Appellant, proceeding pro se, has filed a motion to withdraw “all appeals on death penalty conviction.”<sup>1</sup> Because review is mandated by the rule, even though a convicted defendant in a capital case may desire to waive his personal right to appeal, the appellate review of the case must proceed. *Newman v. State*, 350 Ark. 51, 84 S.W.3d 443 (2002) (per curiam). For that reason, any motion to waive the appeal is therefore moot. *Id.*

Motion moot.

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<sup>1</sup> At this time, no other appeal is pending.